

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Chapter 11

EAST BROADWAY MALL,

Case No. 19-12280 -DSJ

Debtor.

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**SUPPLEMENT TO FOURTH AMENDED CHAPTER 11 PLAN OF LIQUIDATION
FOR EAST BROADWAY MALL**

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Dated August 14, 2023

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INTRODUCTION

On July 6, 2023, the United States Bankruptcy Court for the Southern District of New York (the “**Court**”) entered an order (the “**Disclosure Statement Order**”), (a) authorizing Bank of Hope f/k/a BBCN Bank (“**Bank of Hope**” or “**Bank**”), secured creditor for the chapter 11 estate (the “**Estate**”) of the above-captioned debtor, East Broadway Mall (“**Debtor**” or “**EBM**”) to solicit acceptances for the *Chapter 11 Plan of Liquidation* (as may be modified, amended, or supplemented from time to time, the “**Plan**”);¹ (b) approving the *Disclosure Statement for the Chapter 11 Plan of Liquidation* (the “**Disclosure Statement**”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (c) approving the solicitation materials and documents to be included in the solicitation packages (the “**Solicitation Packages**”); and (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan.

Bank of Hope, a secured creditor for the Chapter 11 Estate of the above-captioned debtor, East Broadway Mall, hereby submits this Supplement to the Plan.

Holders of Claims and Interests should refer to the Disclosure Statement for a discussion of the Debtor’s history, business, assets, and financial information as well as a summary and description of the Plan and certain related matters.

ALL HOLDERS OF CLAIMS AND INTERESTS, TO THE EXTENT APPLICABLE, ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

Your rights may be affected by this Plan. You should consider discussing this document with an attorney.

SUPPLEMENT ARTICLE I. UPDATE OF CERTAIN PLAN DEADLINES

A. Extension of Voting Deadline for Voting Parties

On August 14, 2023, the Court entered an order (ECF No. 194) (the “**Order Amending Plan Deadlines**”) which, *inter alia*, provides for the limited extension of certain deadlines set forth in the Disclosure Statement Order, including specifically the Voting Deadline. Pursuant to this Order, **the Voting Deadline is extended to August 21, 2023 at 4:00 P.M. Eastern.**

B. Other Amended Deadlines

¹ Capitalized terms not otherwise defined herein shall have the same meanings set forth in the Disclosure Statement.

Other amended deadlines in the Order Amending Plan Deadlines are the following: (i) the deadline for Bank of Hope to file a Plan Supplement is August 14, 2023; (ii) the deadline for Bank of Hope to file the Notice of Plan Supplement and serve said notice on voting parties is August 14, 2023; and (iii) the date by which the Bank must file the voting certification with the Court is hereby extended to August 25, 2023 at 4:00 P.M. Eastern. A copy of the Order Amending Plan Deadlines is attached hereto as **Exhibit 1**.

SUPPLEMENT ARTICLE II. ADDITIONAL NEW LEASE TERMS

A. Updated New Lease; Payment of Shared Administrative Expenses by the City

The City and the Approved New Tenant have updated the New Lease as reflected in the latest current draft, which they have authorized Bank of Hope to attach hereto as **Exhibit 2**. The City expects to pay its share of administrative expenses from the funds received from the Approved New Tenant. If such funds are not received or available at the time that payment of an administrative expense is due, the City will meet its obligations via other available funding sources.

B. Leases for which the Approved New Tenant May Seek Assumption and Assignment

The Debtor filed a list of mall subtenants in its Schedule G but has not yet provided a requested update identifying all current mall subtenants under current and unexpired leases. *See* ECF No. 10 at Schedule G. The universe of leases the Approved New Tenant may seek to assume and assign by the Effective Date consist of any mall subtenants identified in Debtor's Schedule G and any new mall subtenants under current, unexpired leases.

SUPPLEMENT ARTICLE III. PLAN ADMINISTRATOR

A. Plan Administrator

BOH has reached an agreement in principle with GlassRatner Advisory & Capital Group, LLC d/b/a B. Riley Advisory Services to serve as Plan Administrator to implement the terms of the Plan.

B. Terms of Plan Administrator's Employment

The Plan Administrator's duties are set forth in the Plan at Article IV. The Plan Administrator will serve in that capacity from the Effective Date until the completion of administration. The Plan Administrator's compensation is to be billed at standard hourly rates ranging from \$225 to \$795. Additional terms of the Plan Administrator's employment are set forth in the summary of terms attached hereto as **Exhibit 3**.

C. Disbursing Agent

The Plan Administrator will also serve as the Disbursing Agent under the Plan.

**SUPPLEMENT ARTICLE IV.
UPDATE ON TAX CLAIMS**

A. Department of the Treasury Amended Claim

On July 18, 2023, after service of the Solicitation Materials by BOH had been completed, the Department of the Treasury / Internal Revenue Service (“**IRS**”) filed another amendment of Claim No. 1. Previously, on April 25, 2023, the IRS had amended its claim, as reflected in Claim No. 1-5, to reclassify it as a non-priority claim in the amount of \$0.00. But in Claim No. 1-6, notwithstanding the date of claim No. 1-5, the IRS asserts that a miscellaneous penalty in the amount of \$20,000.00 was assessed to Debtor on March 6, 2023 for the tax period ending 8/31/2017. As the purported date of this penalty assessment predates the prior filed version of the IRS claim where it was amended to a zero value, and since no other support or explanation for the assessment of this penalty is provided, BOH intends to object to the full amount of this claim.

B. NYC Department of Finance Claim No. 11

NYC Department of Finance, Tax, Audit and Enforcement Division, filed Claim 11 as a priority unsecured claim in the amount of \$665,731.12 for “TAXES”. No documentary support is included with the filed proof of claim. The claim does not satisfy the requirements of Bankruptcy Rule 3001 and so BOH is unable to determine the validity of the claim. Therefore, BOH will object to the full amount of this claim.

Dated: New York, New York
August 14, 2023

Respectfully submitted,

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Attorneys for Bank of Hope

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